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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,866	04/12/2001	Eldon Roth		5185

35236 7590 02/04/2005  
THE CULBERTSON GROUP, P.C.  
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EXAMINER

CORBIN, ARTHUR L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Application Number: 09/833,866  
Filing Date: April 12, 2001  
Appellant(s): ROTH, ELDON

**MAILED**  
FEB 04 2005  
**GROUP 1700**

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For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 22, 2004.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

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A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) Status of Claims**

The statement of the status of the claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Invention**

The summary of invention contained in the brief is correct.

**(6) Issues**

The appellant's statement of the issues in the brief is correct.

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,871,795	Roth	2-1999
64-39965	Nakayama et al (Japan)	2-1989

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

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Claims 1, 3-13 and 22 stand rejected under 35 U.S.C. 103(a). This rejection is fully set forth in prior Office Action, Paper No. 6, paragraph No. 4.

Claims 14-20 stand rejected under 35 U.S.C. 35 USC 102(b) or 35 USC 103(a). This rejection is fully set forth in prior Office Action, Paper No. 6, paragraph No. 6.

**(11) Response to Argument**

Appellant's comment, that Nakayama et al suggests application of ammonia gas or ammonium hydroxide to the surface of meat without distributing the ammonium gas or ammonium hydroxide throughout the meat, is without merit. Contact of ground meat with an aqueous solution or a gas occurs in Nakayama et al and naturally results in distribution thereof throughout the meat particles of the ground meat due to the voids present within the ground meat. Nevertheless, Nakayama et al is merely relied upon for the concept of using ammonia gas and ammonium hydroxide interchangeably in the treatment of comminuted meat. As a result, Nakayama et al is clearly analogous to and properly combinable with Roth.

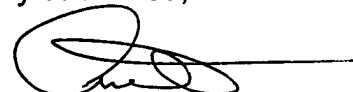
Further, a distribution of ammonium hydroxide solution throughout a mass of ground or contaminated meat is not inconsistent with the teachings of Roth, as appellant believes. The short treatment times used by Roth would still allow for ammonia gas distribution throughout the comminuted meat. Such a distribution occurs in Roth during the blending, agitating or chipping of the meat in the presence of ammonium hydroxide. Such a mechanical action will cause the meat and ammonium hydroxide solution to form a uniform blend in a manner substantially equivalent to

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appellant's claimed mechanical action. This is true regardless of the treatment time used by Roth.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



ARTHUR L. CORBIN  
PRIMARY EXAMINER

2-1-05

A.L. Corbin  
January 14, 2005

Conferees

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MILTON I. CANO  
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Any inquiry concerning this communication from the examiner should be directed to Arthur Corbin whose telephone number is (571) 272-1399. The examiner can generally be reached on Monday--Friday from 10:30 a.m. to 8:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone numbers for the organization where this application is assigned are (703) 872-9306 for regular communications and (703) 305-7115 for After Final communications.

A. Corbin/dh  
January 14, 2005



Glenn Caldarola  
Supervisory Patent Examiner  
Technology Center 1700